

**S/N 09/652,773**

**PATENT**

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Applicant:	Eric A. Jacobsen	Examiner:	Stephen D'Agosta
Serial No.:	09/652,773	Group Art Unit:	2683
Filed:	August 31, 2000	Docket:	884.313US1
Title:	TRANSMIT POWER CONTROL WITHIN A WIRELESS TRANSMITTER		
Assignee:	Intel Corporation	Customer Number	21186

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**REPLY BRIEF UNDER 37 C.F.R. § 41.41**

Mail Stop Appeal Brief - Patent  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

**Appellant's Brief on Appeal**

This Reply Brief is filed in response to the Examiner's Answer (hereinafter, the "Answer"), mailed August 8, 2005, and supplements the Appeal Brief filed by Appellant on July 18, 2005. Please charge any required additional fees or credit overpayments to Deposit Account 19-0743.

**Grouping of Claims**

The Examiner's Answer requested that the appellant include a statement of which claims stand or fall together. The following seventeen (17) separate groups of claims are selected because each group of one or more claims has a separate ground of rejection in the most recent Office Action.

Claims 1, 16, 22, 28, and 31 stand together for purposes of this appeal.

Claims 3, 18, and 33 stand together for purposes of this appeal.

Claim 4 stands alone for purposes of this appeal.

Claims 5 and 20 stand together for purposes of this appeal.

Claim 8 stands alone for purposes of this appeal.

Claim 9 stands alone for purposes of this appeal.

Claims 10, 11, and 12 stand together for purposes of this appeal.

Claim 13 stands alone for purposes of this appeal.

Claim 15 stands alone for purposes of this appeal.

Claim 21 stands alone for purposes of this appeal.

Claim 23 stands alone for purposes of this appeal.

Claim 25 stands alone for purposes of this appeal.

Claims 26 and 32 stand together for purposes of this appeal.

Claim 27 stands alone for purposes of this appeal.

Claim 29 stands alone for purposes of this appeal.

Claim 14 stands alone for purposes of this appeal.

Claim 17 stands alone for purposes of this appeal.

The appellant does not make any admission that any claim may not be argued in another forum as independently patentable from any other claim. Additionally, the appellant's grouping of claims above is provided for the purposes of this Reply Brief only.

### **Argument**

The appellant respectfully submits that the Examiner's answer is erroneous in its application of the law of 35 USC §103 in the rejections of the pending claims. The Examiner's Answer has not cited clear and particular evidence of record in support of a motivation to combine the applied references as is required by *In re Dembiczak* and *In re Lee*, and is improperly using hindsight in combining the references contrary to *In re Dembiczak*. In addition, the Examiner's Answer has not cited evidence of a reasonable expectation of success of the proposed combinations as is required by *In re Vaeck* and *In re Lee*. The Examiner's Answer fails to fortify the rejection.

The Examiner's Answer cites language from Charas, Yun, and Daniel, but does not identify these quotes as supporting the statements of motivation for combining the references in the rejections. Broad statements of purpose from a single reference do not provide a motivation to combine references. Furthermore, the rejections are each based on a combination of at least four references, Daniel, Yun, Keskitalo, and Charas. The Examiner's Answer has not identified a chain of specific evidence that would motivate one skilled in the art to link Daniel, Yun,

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Keskitalo, and Charas in a combination as is required by *In re Vaeck* and *In re Lee*. The rejections of the claims are improperly based on hindsight contrary to *In re Dembiczak*.

The Examiner's Answer is missing evidence of a reasonable expectation of success of the various combinations of references as required by *In re Vaeck* and *In re Lee*. There is no evidence of how the pieces of Daniel, Yun, Keskitalo, and Charas are to be fit together into a whole system that has a reasonable expectation of success.

The Examiner's Answer states that several elements are "inherent" or "inherently" in a reference. Elements not explicitly shown in the references cannot be "interpreted" as such, absent further evidence in the prior art itself, under *In re Zurko*.

**CONCLUSION**

For the foregoing reasons, the appellant respectfully submits that the rejections of claims 1, 3-5, 8-18, 20-23, 25-29, and 31-33 under 35 U.S.C. §103 were erroneous. Reversal of those rejections is respectfully requested, as well as the allowance of all the rejected claims.

If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 19-0743.

Respectfully submitted,

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Date 11 October 2005 By   
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